

REMARKS

In the Office Action, the Examiner has rejected claims 1, 11 and 17 for being directed to non-statutory subject matter, and has rejected all claims for being anticipated by U.S. Publication No. 2002/0112171 (hereinafter Ginter et al.).

In response, Applicant has amended all of the independent claims (i.e. claims 1, 11 and 17) to indicate that the methods claimed are computerized. Further, all independent claims have been amended to recite methods that require the transfer of complete file control to a buyer. Specifically, as now required by the amended claims, this transfer requires the actions of three separate entities: a seller, a buyer and a transaction agency. Further, two of these three entities encrypt the file (i.e. the seller and the transaction agency), and another two of the three entities decrypt the file (i.e. the transaction agency and the buyer). Support for these amendments is found in the specification on page 5, at lines 5-10 and 20-26, and on page 9, at lines 8-18.

Amendments to the claims have been presented to improve the readability of the claims, to more clearly define the operation of the methods, and to point out the features which distinguish this invention over the cited art. Claims 1-12 and 15-20 remain pending.

Rejections under 35 U.S.C. § 101

Claims 1, 11 and 17 have been rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Applicant respectfully disagrees. 35 U.S.C. § 101 specifically identifies a "useful process" (e.g. method) as statutory subject matter. The

present invention, as originally claimed, should be considered as being statutory subject matter because its claims are for methods that require a plurality of articulated steps. Nevertheless, in order to introduce the notion of "hardware" as indicated by the Examiner, Applicant has amended claims 1, 11 and 17 so that they now require the methods of the present invention be "computerized".

For the reasons set forth above, Applicant believes the basis for rejecting claims under 35 U.S.C. § 101, for being directed to non-statutory subject matter has been overcome and should be withdrawn.

Rejections under 35 U.S.C. § 102(e)

Claims 1-20 have been rejected under 35 U.S.C. § 102(e) for being anticipated by Ginter et al.

As indicated above, all of the independent claims (i.e. claims 1, 11 and 17) have been amended to require methods wherein there is a transfer of complete file control to a buyer. Specifically, as claimed, this transfer requires the actions of three separate entities: a seller, a buyer and a transaction agency. In accordance with the present invention, two entities must encrypt the file (i.e. the seller and the transaction agency), and two entities must decrypt the file (i.e. the transaction agency and the buyer). Ginter et al. do not teach or suggest such a methodology.

Unlike the present invention, Ginter et al. are concerned with providing and maintaining a secure environment for performing certain control and administrative functions (see [0282] in Ginter et al.). The present invention simply does not create an

environment. Rather, the present invention encrypts a file for purposes of transferring complete file control from one entity (a seller) to another entity (a buyer). Once file control has been transferred to the buyer, the buyer has gained complete control over the file. The present invention then provides no means, whatsoever, for continued security of the file. In contrast, for the “virtual distribution environment” (VDE) created by Ginter et al., the end user receives only selected rights (see [1181] in Ginter et al.).

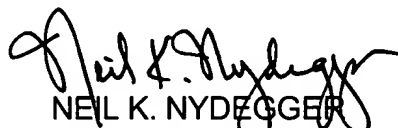
In another aspect, the steps claimed by the present invention for encryption and decryption are different from any corresponding steps disclosed by Ginter et al. Specifically, in the three-entity operation of the present invention, two of the entities collectively encrypt the file that is being transferred. Another, different, two of these three entities then collectively decrypt the file. Ginter et al. do not teach or suggest such an operation. Instead, Ginter et al. contemplate decryption by a single entity using variously selected keys (see [1468] in Ginter et al.).

For the reasons set forth above, Applicant believes the amended independent claims 1, 11 and 17 are patentably distinguished from the disclosure of Ginter et al. Likewise, the claims which depend from these claims are also distinguished. Accordingly, Applicant contends the basis for rejecting claims under 35 U.S.C. § 102(e) for being anticipated by Ginter et al. has been overcome and should be withdrawn.

In conclusion, Applicant respectfully asserts that claims 1-12 and 15-20 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Dated this 31st day of July, 2003.

Respectfully submitted,


NEIL K. NYDEGGER
Attorney for Applicant
Registration No. 30,202

NYDEGGER & ASSOCIATES
348 Olive Street
San Diego, California 92103
Telephone: (619) 688-1300